

EXHIBIT 39

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DIVISION OF VIRGINIA
3 Civil Action No. 2:18-CV-530
4 CSX TRANSPORTATION, INC.,
5 Plaintiff,
6 vs.
7 NORFOLK SOUTHERN RAILWAY
8 COMPANY, et al.,
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10 Defendants.

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ATTORNEYS' EYES ONLY

Videotaped
Deposition of: RYAN HOUFEEK

Date Taken: December 9, 2020

Time: 9:40 a.m. - 2:02 p.m.

Taken By: The Defendants

Location: Via Videoconference

Reported By: Emily W. Andersen, RMR CRR FPR
Stenograph Shorthand Reporter
and Notary Public, State of
Florida at Large

Job No. CS4365258

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1 versus southeast Asia. All these different services,
2 what they call strings, that will call on the U.S. So
3 whether -- so depending on where -- from where, to or
4 from it's going in the world will determine which port
5 that they would go build their services around.

6 So, I mean, the answer is they called on
7 Seattle, Tacoma. They called Vancouver. They called
8 Los Angeles; Long Beach; you know, Houston; Miami; I
9 don't know about Jacksonville; Savannah; probably not
10 Charleston; Norfolk; and New York/New Jersey.

11 Q. Okay. So did --

12 A. Depending on the various -- depending on the
13 particular service and that kind of thing.

14 Q. Okay. So on the east coast, the company you
15 worked for for two years used the Virginia ports and the
16 New York ports?

17 A. They did. All ocean carriers are going to call
18 New York because New York is such a huge consumer
19 market. So regardless, even the carriers that are big
20 in Norfolk, are certainly going to call New York/New
21 Jersey and discharge cargo for local consumption there.
22 That's -- you know, of course.

23 And then the real question was whether or not
24 they would use the ports of New York/New Jersey or the
25 ports of Virginia for furtherance inland, so whether or

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1 not they discharge their Chicago or their Columbus, you
2 know, and Kansas City cargo. They could either use or
3 favor the New York/New Jersey ports for that or Virginia
4 ports.

5 Q. At that time period, would a French supplier,
6 like the company you worked for, if they wanted to get
7 something to the midwest, would there be competition
8 between the New Jersey and the New York ports and the
9 Virginia port?

10 A. Sure, yeah. I mean, the Virginia ports and the
11 New York/New Jersey ports compete for that interior
12 cargo.

13 Q. And when you say interior cargo, you mean a
14 destination somewhere in the middle of the country or
15 midwest?

16 A. Exactly. You will also hear IPI, which is an
17 acronym that stands for inland point intermodal. And so
18 the IPI cargo was kind of the jump ball competitive
19 cargo that the ports would compete for.

20 So in other words, Norfolk or Virginia wasn't
21 competing for New York local cargo; right? That's going
22 to discharge in New York/New Jersey, naturally. What
23 they are competing for -- and, you know, is that, again,
24 Cincinnati, Columbus, Cleveland, Detroit, Chicago,
25 Kansas City and so forth.

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1 A. For CSX, yes.

2 MS. DOUGHERTY: Okay. Mr. Houfek, I have no
3 further questions. Thanks for your patience today.

4 MR. LYNCH: I have one follow-up question.

5 REDIRECT EXAMINATION

6 BY MR. LYNCH:

7 Q. Ryan, are you aware of any identifiable
8 international intermodal freight that must move through
9 NIT terminal in order to reach its final destination?

10 A. When you speak in absolutes like that, no. I
11 mean, it is entirely plausible that the alliance that
12 has sort of chosen NIT as its strategic port of entry
13 for its IPI, in the case you've seen referencing the
14 CKYNH, they could make a decision to use Jersey. I'm
15 sure there's a lot of reasons why they didn't, but to
16 say they can't, no, I couldn't say they can't.

17 MR. LYNCH: Okay. I don't have any further
18 questions.

19 MR. SKIDMORE: All right. So are we done?

20 MR. LYNCH: Yeah, the only thing is there is a
21 protective order in the case, and I think each
22 side -- I forgot the exact amount of days, but I
23 think each party has a certain amount of days to
24 make designations if they choose to.

25 MS. DOUGHERTY: Yes, I would just ask that